



TESTIMONY OF

VINCENT B. NISKI, Senior Master Sergeant, USAF (Ret)
NATIONAL PRESIDENT

OF

THE RETIRED ENLISTED ASSOCIATION

BEFORE THE

SENATE VETERANS AFFAIRS COMMITTEE

AND

HOUSE VETERANS AFFAIRS COMMITTEE

ON

MARCH 14, 2002

National President
The Retired Enlisted Association

National President Vincent B. Niski enlisted in the U.S. Air Force on July 5, 1951. His military experience found him in a host of foreign locations, including time spent in Vietnam. He retired from the Air Force on April 1, 1972.

Mr. Niski joined TREA in 1984 and has been a member of various committees and the Board of Directors of TREA Chapter 1. Mr. Niski served as TREA's Sergeant-at-Arms for many national conventions. He has served on various national committees and served as National Director, National 1st Vice President before being elected TREA's National President in September 2000.

President Niski and his wife, Bev, reside in Colorado Springs, Colorado.

DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Retired Enlisted Association does not currently receive, has not received during the current fiscal year or either of the two previous years any federal money for grants or contracts. All of the Association's activities and services are accomplished completely free of any federal funding.

Chairman Rockefeller, Chairman Smith, Ranking Member Specter, Ranking Member Evans, distinguished members of the House and Senate Veterans Affairs Committees, on behalf of the 100,000 members and auxiliary of The Retired Enlisted Association (TREA) and the over 1 million enlisted retirees of the United States Armed Forces, I would like to express our appreciation for having the opportunity to come before you today and provide our view as to what benefit structure we believe will best benefit current and future enlisted retirees, all veterans and their survivors.

VETERANS HEALTH ADMINISTRATION

MEDICARE SUBVENTION

The time has come to allow the Department of Veterans Affairs to bill Medicare when the VA treats Medicare patients. Commonly referred to as Medicare Subvention, this particular program can accomplish two goals: one, the VA would benefit by billing Medicare for care it may have to provide to veterans regardless of whether or not the VA would be compensated. Two, it greatly improves veterans' access to health care. Presently, many older veterans are severely limited in their health care options. TREA realizes that the Medicare Subvention program falls under the jurisdiction of the Senate Finance Committee and House Ways and Means Committee; however, we would certainly appreciate the support of all the members of the Veterans Affairs Committees' in this process.

HEALTH CARE COSTS

There has been much discussion concerning the required funding for VA Healthcare. For the past several years, the Administration has proposed their budget, many organizations present their estimate and Congress has increased the Administration's request and each year the exercise continues. On July 30, 1996, Rep. Bob Stump (R-AZ), then Chairman of the House Veterans Affairs Committee stated on the floor of the House, "The VA Committee, as well as the Department of Veterans Affairs, believes the bill can be implemented without the need for additional funds. However, the Congressional Budget Office disagrees and estimates that if fully funded, HR 3118 would result in increased demand for VA health care." On February 13, 2002, Secretary of Veterans Affairs, the Honorable Anthony J. Principi stated in his testimony to the House VA Committee, "To effectively manage participation in the system, we are proposing a \$1,500 medical deductible for Priority 7 veterans. With no change in policy, the cost of care for Priority 7 veterans would grow from \$1 billion in 2000 to over \$5 billion in 2007." TREA recommends that this committee ask the General Accounting Office (GAO) to perform an independent review of VA health care to determine the funds needed to fund current authorized law.

ELIGIBILITY REFORM

2002 is the fourth year in a row in which the Secretary of Veterans Affairs has announced that all veterans who desire can be enrolled in the VA for health care. This is significant because it means that a large number of non-service connected veterans whose income is above the means test, are now guaranteed health care through the VA. This has dramatically increased the number of potential patients at VA facilities. The unfortunate consequence of this decision is that service-connected disabled veterans are having difficulty in receiving health care due to lack of space.

While TREA appreciates the efforts of Congress for enacting eligibility reform, and the Secretary of Veterans Affairs for finding the necessary funding to allow Category 7 veterans to enroll, we are concerned that this increase in customers has shifted the focus away from disabled veterans seeking care for their service connected disabilities. Finally, we ask the committee to authorize military retirees be moved to a category after all disabled veterans. Retired veterans have earned it and The American Legion has passed a resolution at their convention to agree with TREA. We urge you to support H.R. 2711, Military Retiree Veterans Health Care Eligibility Act that was introduced by Rep. Ronnie Shows, a member of the House Veterans' Affairs Committee.

TREA is also concerned over the Administration's budget request to force military retirees make a choice between the Department of Defense, and the Department of Veterans Affairs for their health care. Many military retirees are also disabled veterans. A small example: If a military retiree has a 10% disability for a service-connected knee, the military retiree will use VA only for that service-connected disability. The military retiree will use DoD (TRICARE) for all other healthcare needs. Further, if forced to choose DoD, this would cause the military retiree to pay for the service-connected disability, unless treatment was obtained at a military treatment facility. If the TRICARE benefit used would require a non-MTF physician, a co-pay is required. Also, family members of the military retiree cannot be seen in a VA facility with the exception as a TRICARE Prime patient. Finally, many health care benefits provided by VA are not provided by DoD.

VETERANS BENEFIT ADMINISTRATION

EDUCATION BENEFITS

TREA is proud to have joined with an unprecedented organization of representatives from higher education and the veterans' community to push for a minimum standard of what the educational benefit must be. That minimum, to be determined annually, will be based on the average cost of a four-year degree at a public college for a non-resident student. At a minimum, this is what we owe our veterans for this will provide them with the education they were promised. TREA is very pleased with the Committee's work in the first session of this Congress to significantly increase

the Montgomery GI Bill and move closer to the goal of a fully funded education for our nation's veterans.

CLAIMS PROCESSING

TREA is very concerned about the continuing delay in the area of claims processing. We realize that a VA Claims Processing Task Force reported to Secretary Principi on October 3, 2001 with a comprehensive report of recommendations. However, many of these recommendations have been made in previous reports to Congress and the Secretary of Veterans Affairs. TREA has a deep respect for Secretary Principi and his genuine concern to make improvements in this area however, Congress needs to continue its vigilance in this area.

DISABILITY COMPENSATION

Another issue of great concern to military retired veterans is the fact that they must offset their retirement pay dollar for dollar to the amount of VA disability they receive. This issue, commonly called Concurrent Receipt, places military retirees in a class of their own when it comes to receiving VA disability. Unfortunately, this is a class that is punished for twenty or more years of military service, not rewarded for it. No other veteran, whether a federal employee or private sector employee, has their retirement offset if they receive VA disability. According to the Department of Defense, there are presently over 450,000 retired enlisted members of the uniformed services who are forced to offset their retirement. Often, these disabled veterans are unable to work due to conditions, which are connected, to their military service. The reward that these veterans receive is a deduction in their retirement. It is imperative that something be done to assist these veterans' live better lives. Although concurrent receipt is now authorized, we urge you to support efforts on the House and Senate Budget Committees to provide funding for retired pay restoration (concurrent receipt).

It is also important to remember that the payment received from the Department of Veterans Affairs is not retired pay, but compensation for a disability sustained in service to our country. Unfortunately, there are those who would like to strip this service-connected compensation from retirees. TREA is concerned with the frequent garnishment of VA disability compensation in cases of divorce. Marriages ending in divorce have become a common occurrence in our society, including the military community. In order to protect the spouses of members of the Armed Forces, Congress, in 1982, passed the Uniformed Services Former Spouse Protection Act, Public Law 97-252; 10 USC 1408. Unfortunately, this legislation, which Congress assumed would help many, has only damaged the lives of retirees, particularly those receiving disability. The USFSPA gives judges issuing the divorce decree the right to award up to 50% of a retirees pay to a former spouse as part of the settlement. However, judges have failed to recognize the fact that VA disability compensation is not retirement pay. Disability compensation should not be garnished to pay court-ordered obligations. Now, military retirees who are disabled, the more severely disabled the worse situation, are forced to surrender up to all of their already reduced retirement pay and a portion of their disability

pension. This in spite of the fact that the USFSPA is supposed to protect disability pay from being garnished and that the United States Supreme Court reinforced this fact in its ruling in *Mansel vs. Mansel* in May, 1989.

We recognize the fact that the issue of the Former Spouse Protection Act falls under the jurisdiction of your colleagues on the Armed Services Committee. However, it is imperative of this Committee to pass legislation, which will strengthen the protections of VA disability compensation because it is obvious that they are being ignored today.

ARLINGTON NATIONAL CEMETERY

ARLINGTON ELIGIBILITY

It is our hope that the Senate will address another important issue, which the House addressed during the last session. We urge the Senate VA Committee to support changes in Title 38 to insure that veterans are considered with a fair process for being eligible for burial in Arlington National Cemetery.

KEEPING TRACK OF OUR NATION'S VETERANS

One lesson that has been learned through our experiences with Gulf War Illness is the ability to track down veterans after they separate from the military. As we enter a new century this nation still does not have an accurate database of all its veterans. The VA does not necessarily have a copy of the discharge papers (DD-214) for veterans who separated before 1974. That means there are, potentially, millions of veterans from World War I, World War II, Korea and Vietnam who are not recorded in the VA's database. Further, once a veteran moves after they separate, their address is no longer accurate. The 21st Century is the present. It is time we use the technology we have developed in order to track our veterans throughout their lives. By doing so, the VA will better understand their needs and have the ability to inform veterans of their entitlements in a timely and efficient manner.

This issue needs to be addressed by your colleagues on the Commerce/State/Justice Appropriation Subcommittee. However, the members of this Committee can, no doubt, impress upon the members of the appropriations subcommittee how important it is that we have the ability to get in contact with our veterans' when necessary.

CONCLUSION

Mr. Chairman, I recognize the fact that I addressed some issues, which fall outside the jurisdiction of the Veterans Affairs Committee, however many of you have other committee assignments that can influence passage of other legislation.

Chairman Rockefeller, Chairman Smith, Ranking Member Specter, Ranking Member Evans, honorable Committee members, thank you for the opportunity to come before you today. It is truly an honor and a privilege. Today I have presented an outline of areas where TREA believes progress can be made in helping our nation's veterans'. We recognize the constraints under which you must determine which program is funded and which is not. However, we ask you to remember the sacrifice that many of you, as veterans', made for your country and to do all that is possible to ensure that our veterans have the finest benefits afforded to them.

Again, thank you for your time. I would be pleased to answer any questions at this time.